IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPEAL NO. 550 OF 2005

The State of Maharashtra .. Appellant

Vs.

M.S. Mallipatil .. Respondent

Mr.K.V. Saste, APP for appellant-State.

CORAM : B. H. MARLAPALLE &
SMT. R.S. DALVI,JJ.

Date : January 25, 2006.

P.C.:

1. Heard the learned APP. This is an appeal under Section 377 (1) of the Code of Criminal Procedure for enhancement of sentence awarded to the respondent-accused by the learned 12th Ad-hoc Assistant Sessions Judge, Pune for the offence punishable under Section 326 of IPC, in Sessions Case No.168 of 2002. The learned Ad-hoc Assistant Sessions Judge was pleased to convict the accused for the offence punishable under Section 326 of IPC and sentenced him to suffer RI for 3 years and to pay a fine of Rs.3000/- in default to suffer SI for three months. The learned APP submits that the sentence so awarded is inadequate in the nature of the offence held to be proved against the accused.

2. The learned Ad-hoc Assistant Sessions Judge has considered the testimony of three doctors i.e. Dr. Rahul Sahlke from Sassoon Hospital at Pune (P.W.2), Dr. Ramchandra Bharadwaj (P.W.3) and Dr. Bhushan Shah (P.W.4) both of whom were attached to the D.Y. Patil Hospital had treated the injured complainant. Injury certificate at Exh.53 was issued at the first instance by Dr. Sahlke (P.W.2) and he stated that the injury no.1 was grievous in nature whereas the other two injuries were of simple in nature. The first injury was described as "burn injuries in the head, neck and face". It has also come in the evidence of the complainant himself that after he sustained the injuries on account of the chemical having been thrown on his person, he went to his brother who is a doctor and described him the incident and thereafter both of them went to the police station to lodge a complaint. There is no evidence to show that the complainant sustained any permanent disability. The trial court has also noted that the incident had occurred in a quarrel between the complainant and the accused and, therefore, taking into consideration the totality of the reasoning set out by the trial court, we are satisfied that the

sentence awarded for the offence punishable under Section 326 of IPC cannot be held to be inadequate or disproportionate to the nature of the offence.

3. We, therefore, do not find any case made out in this appeal for enhancement of sentence and the same is hereby dismissed.

(Smt.R.S. Dalvi,J.) **(B.H. Marlapalle, J.)**